

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

FILED
CHARLOTTE, NC
JAN 14 2013

US District Court
Western District of NC

UNITED STATES OF AMERICA, *et al. ex rel.*
LYNN E. SZYMONIAK,

Plaintiffs,

v.

ACE SECURITIES CORPORATION, *et al.*,

Defendants.

CIVIL NO. 3:10CV575-RJC
UNDER SEAL

**RELATOR'S MOTION TO TRANSFER
THIS CASE TO THE DISTRICT OF SOUTH CAROLINA**

Pursuant to 28 U.S.C. § 1404(a), because transfer will serve the interests of justice, because this case could have been brought in the District of South Carolina, with United States Government's consent, and for the reasons stated in the attached memorandum in support, the relator moves to transfer this action to the United States District Court for the District of South Carolina so that it can be heard with the related case: *United States et al. ex rel. Syzmoniak, v. American Home Mortgage Servicing, Inc., et al.*, Civil No. 0:10-cv-01465-JFA (D.S.C.) (J. Anderson).

On November 12, 2010, the Relator, a resident of Florida, filed this *qui tam* complaint under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, alleging that defendants, ACE SECURITIES CORPORATION, ALLY FINANCIAL INC., AURORA LOAN SERVICES LLC, BANK OF AMERICA, BAC HOME LOANS SERVICING, LLP, BANC OF AMERICA MORTGAGE SECURITIES, INC., BAYVIEW LOAN SERVICING LLC, CALIFORNIA

RECONVEYANCE COMPANY, CARRINGTON MORTGAGE SERVICES, CHASE HOME FINANCE, CITIMORTGAGE INC., DOCX, LLC, HOME Q SERVICING CORPORATION, CAPITAL REAL ESTATE, INC., HSBC MORTGAGE SERVICES INC., LENDER PROCESSING SERVICES, INC., LITTON LOAN SERVICING, NATIONWIDE TITLE CLEARING, OCWEN LOAN SERVICING, ONEWEST BANK, ORION FINANCIAL GROUP, PROMMIS SOLUTIONS, SECURITIES CONNECTION, INC., SELECT PORTFOLIO SERVICES, INC., VERICREST FINANCIAL INC., WELLS FARGO HOME MORTGAGE and JOHN DOE CORPORATIONS 1 THROUGH 100, violated the False Claims Act. About half a year before bringing this action, on May 31, 2012, Relator filed a False Claims Act *qui tam* complaint alleging claims identical to those asserted here, against fifteen defendants, in the United States District Court for the District of South Carolina. *United States et al. ex rel. Syzmoniak, v. American Home Mortgage Servicing, Inc., et al.*, Civil No. 0:10-cv-01465-JFA (D.S.C.). Defendants WELLS FARGO HOME MORTGAGE and the BANK OF AMERICA CORPORATION are defendants in both the South Carolina and the Western District of North Carolina cases. The remaining defendants in South Carolina are not before the Court in this action.

In both cases, Relator alleges that when defendants formed Residential Mortgage Backed Securities they failed to prepare or obtain mortgage assignments or note endorsements, and that defendants charged improper costs to trusts, falsified documents, misrepresented corporate authority, forged signatures, and impaired the value of the collateral in trusts. Relator further alleges that defendants made improper claims for Federal Housing Administration, Veterans Administration and Department of Agriculture insurance on foreclosed mortgages.

According to Relator, the United States purchased defective securities in three different ways: 1) as part of the Federal Reserve's Maiden Lane transactions; 2) in Treasury's Public Private Investment Program (PPIP); and 3) in the Federal Reserve's and the Treasury's Agency RMBS Purchase Programs. Relator alleges that knowing misrepresentations made by defendants in SEC filings and transactional documents related to the RMBS trusts caused the United States to buy defective securities in these programs.

In both cases, Relator asserts claims under the federal False Claims Act, 31 U.S.C. §§ 3729-3732 (FCA), and under the false claims acts of seventeen states and three municipalities,¹ against defendants that served as trustees, servicers and depositors in connection with RMBS.

Although some of the defendants in the two matters are different, many of the legal and procedural issues will be identical.

A Memorandum of Support of Relator's Motion to Transfer has been filed contemporaneously herewith, and a proposed order has been attached for the Court's convenience. The Government has consented to the transfer of the case to the District of South Carolina.

The Relator believes that it is in the interests of justice for this case to be transferred to the District of South Carolina to be consolidated with the related case already pending in that District.

WHEREFORE, Relator respectfully requests that this Western District of North Carolina case be transferred to the District of South Carolina.

¹ California, Delaware, Florida, Hawaii, Illinois, Indiana, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Rhode Island, Virginia, the District of Columbia, Chicago and New York City.

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January 11, 2013

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2013, the foregoing **RELATOR'S MOTION TO TRANSFER THIS CASE TO THE DISTRICT OF SOUTH CAROLINA** was served on the following persons listed below via United States Mail, First Class:

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